

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Joseph Sastre,

Complainant

against

Docket #FIC 2016-0535

Marc Montminy, Chief, Police  
Department, Town of Manchester;  
Police Department, Town of  
Manchester; and Town  
of Manchester,

Respondents

April 12, 2017

The above-captioned matter was heard as a contested case on October 12, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by email dated July 12, 2016, the complainant requested that the respondents provide him with copies of written documents provided to the Chief of Police for the Town of Manchester (the "Chief") by the Connecticut Department of Motor Vehicles (the "DMV").
3. It is found that, shortly after receiving the request, the Chief telephoned the complainant to say that he could not disclose copies of the requested records because they originated in the Connecticut On-Line Law Enforcement Communications Teleprocessing ("COLLECT") system, but that, if the complainant wanted to stop by the police department, he would let him review the records.
4. By letter dated and filed July 22, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") by failing to provide him with a copy of the records described in paragraph 2, above.

5. Section 1-200(5), G.S., provides:

“Public records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. It is found that, on May 27, 2016, the complainant filed a “civilian complaint report” with the respondents, in which he contended that his client’s vehicle had been towed in error by members of the respondent police department. The complainant demanded that the Chief investigate and redress the matter.

10. It is further found that, by letter also dated May 27, 2016, the complainant corresponded with the Chief, explaining that his client’s vehicle should not have been towed as it was properly registered, that such fact was explained to the officers before the vehicle was actually towed, but that the officers would not “call off the tow.”

11. It is found that, by email dated June 29, 2016, the Chief corresponded with the complainant. In his email, the Chief explained that the DMV was contacted with regard to the registration status of the subject vehicle and that, on the day of the tow, the Chief had documentation indicating that the plates on the vehicle were “inactive.” It is further found that the Chief stated that, upon receiving the complainant’s civilian complaint report and correspondence, he again contacted the DMV, requesting a second confirmation on the vehicle’s plates. It is found that the Chief explained that the DMV had responded to his

second request, stating that the vehicle's inactive status was "due to an insurance compliance issue."

12. It is found that the request at issue seeks a copy of all of the records referred to by the Chief in his June 29, 2016 email, described in paragraph 11, above.

13. The respondents contended that the requested records were not disclosed to the complainant because they are exempt from disclosure pursuant to §29-164f, G.S., because they are NCIC records.<sup>1</sup>

14. Section 29-164f, G.S., provides, in relevant part, as follows:

The National Crime Prevention and Privacy Compact is hereby entered into and enacted into law with any and all of the states and the federal government legally joining therein. . . .

15. In Commissioner of Public Safety v. FOIC, et al., 144 Conn. App. 821, 827 (2013), the Appellate Court clarified that "the compact provides that the NCIC database is to be used for limited purposes authorized by law, such as background checks, and that NCIC records may only be used for official purposes." The Court concluded that §29-164f, G.S., provides a statutory exemption to the disclosure provisions of §1-210(a), G.S. Id. at 831.

16. The complainant contended that the records are not exempt from disclosure as NCIC records because the records come from the COLLECT system, which is separate and distinct from the NCIC database. The complainant further contended that, if he was offered the opportunity to review the records, he should also be able to obtain a copy of them.

17. It is found that the COLLECT system is a statewide criminal justice system that is dedicated to the law enforcement and criminal justice agencies in the State of Connecticut. It is found that access to the COLLECT system is granted only to law enforcement and criminal justice agencies. It is found that the COLLECT system provides access to in-state COLLECT files, such as DMV, Sex Offender Registry, State Police Criminal History files, as well as access to two national systems: NCIC and the International Justice and Public Safety Information Sharing Network ("NLETS").

18. It is found that, if a law enforcement agency such as the respondent police department, requests certain criminal justice information (such as, an individual's criminal history) from the federal government, the information is sent from the NCIC database to the local police department via the COLLECT system. It is further found that local police departments regularly request and receive criminal justice information from the

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<sup>1</sup> NCIC stands for the "National Crime Information Center," a computerized database of criminal history information, which is maintained by the Federal Bureau of Investigation.

Connecticut State Police through the COLLECT system as well.

19. In this case, it is found that the Chief issued a request for information pertaining to an individual's registration through the COLLECT system. It found that the COLLECT system routed the request to the DMV, the DMV, in turn, routed the response to the request through the COLLECT system to the State Police, and then the State Police routed the response back to the Chief.

20. Based on the fact that neither the request nor the response referred to in paragraph 19, above, actually interfaced with a NCIC database, the complainant contend that the requested records are COLLECT records, which cannot be exempt as NCIC records.

21. However, this Commission has previously held that the COLLECT system is part of the overall NCIC system and that records obtained through such system are exempt from disclosure as NCIC records. The Commission takes administrative notice of its previous decisions in which it held that records accessed by way of the COLLECT system are exempt from mandatory disclosure. See, e.g., Lazzari v. Chief, Police Department, Town of Newington, et. al., Docket #FIC 2015-518 (Feb. 10, 2016); Anania v. University of Connecticut, et al., Docket #FIC 2013-562 (May 28, 2014).

22. It is concluded that the requested records are exempt from mandatory disclosure pursuant to §29-164f, G.S.

23. Finally, it is found that the Chief, wanting to help the complainant understand why his client's vehicle was towed, offered to show the records at issue to the complainant. It is found that such offer was extended to the complainant as an accommodation. It is found that, after having received the offered accommodation, the complainant informed the Chief that he would come to the respondent police department and review the records, but never did. It is found that, instead, the complainant filed this instant appeal with the Commission, as is his right.

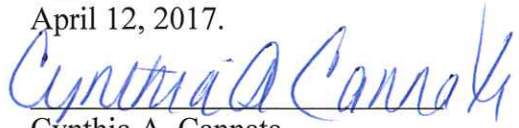
24. It is found that the accommodation extended by the Chief to the complainant does not change the fact that the records at issue are NCIC records, which are exempt from public disclosure.

25. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint.

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of  
April 12, 2017.



Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Joseph Sastre  
67 Chestnut Street  
Bristol, CT 06010

Marc Montminy, Chief, Police Department, Town of  
Manchester; Police Department, Town of Manchester;  
and Town of Manchester  
c/o Timothy P. O'Neil, Esq.  
Corporation Counsel  
41 Center Street  
Manchester, CT 06040



Cynthia A. Cannata  
Acting Clerk of the Commission